(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO.2288 /2002

PETITIONERS : 1) Pankaj Kumar Nirmalkar
S/o Late Premlal Nirmalkar,
Aged about 34 years,
Sarpanch, Gram Panchayat
Amlidih, Block Dharsiva,
Tehsil & District-Raipur(CG)

2) Smt. Kavita Chawla
W/o Govind Ram Chawla,
Aged about 42 years,
R/o Ganga Vihar,Amlidih,
Post Ravigram,
Tehsil & Distt.Raipur (CG).

3) Smt. Rukhmani Devangan
W/o Govardhan Devangan,
Aged about 50 years,
R/o Ganga Vihar,Amlidih,
Post:Ravigram,
Tehsil & Distt. Raipur (CG)

4) Devendra Prasad Gupta
W/o B.R. Gupta,
Aged about 48 years,
R/o Ganga Vihar,Amlidih
Post Ravigram,
Tehsil & District,Raipur(CG).

P. R. No. 2389/02
Presented by Shri A.T. Verma
dated 28/10/02

VERSUS

RESPONDENTS : 1) State of Chhattisgarh
Through the Secretary,
Housing & Environment Deptt.,
Mantralay DKS Bhawan,Raipur.

2) The Director,
Town & Country Planning Deptt.
Opp.Mantralaya,GE Road,
Raipur (CG).

3) Gram Panchayat,Amlidih
Blcok Dharsiva,
Tehsil & District-Raipur(CG)

4) The Collector,
Raipur District, Raipur.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONTITUTION OF INDIA

(42)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 2288/02 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	D.B.: Hon. Shri Fakhruddin, J & Hon. Shri L.C. Bhadoo,J. 19/2/2004 Shri Bharat Rajpoot for the petitioners. Shri Sanjay K. Agrawal, Dy. A.G., and Shri Ranbir Singh, Govt. Advocate, for the respondents no.1, 2 and 4 on advance copy. Heard. The present petition has been filed by the petitioners against the issuance of notices by the Government to regularize their construction. State counsel raised an objection and submitted that the petitioners have directly filed this writ petition against the show cause without approaching the authority concerned. They relied upon the judgment of the Apex Court in the case of Special Director and another vs. Mohd. Ghulam Chouse and another reported in 2004 AIR SCW 416, wherein it has been held in para 5 as under: "5. This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless, the High Court is satisfied that the show cause notice was totally non est in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक..... **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

matter of routine and the writ petitioner should invariably be directed to respond to the show cause notice and take all stands highlighted in the writ petition. Whether the show cause notice was founded on any legal premises is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the Court. Further, when the Court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is accorded to the writ petitioner even at the threshold by the interim protection, granted."

In the aforesaid view of the matter, the petitioners want to withdraw this petition with liberty to raise the grounds before the competent authority.

Accordingly, the petition stands disposed of with the liberty as prayed.

Security, if any, deposited by the petitioners be refunded.

Sd/-
Fakhruddin
Judge

Sd/-
L.C. Bhadoo
Judge

GRPRJ—FS/78 — 9/2000 —50,000.